

**BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

In the Matter of the Application of Otter Tail
Power Company, et al. for Certification of
Transmission Facilities in Western Minnesota

MPUC Dockets: CN-05-619
TR-05-1275
OAH Docket: 12-2500-17037-2
12-2500-17038-2

PETITION FOR INTERVENTION

Ron Gustafson and Linda Castagneri (hereinafter "Gustafson and Castagneri"), World Organization for Landowner Freedom (hereinafter "W O L F ") and Nancy Prehn (hereinafter "Prehn"), under the provisions of Minn.R. 1405.0900, make this Petition for an Order granting intervenor status in the above-captioned proceeding.

Excelsior Energy has been granted Intervenor status. Gustafson and Castagneri are landowners immediately adjacent to Mesaba's preferred western site, directly affected by Excelsior's Mesaba Project, and because Excelsior has been granted intervenor status, Gustafson and Castagneri request Intervenor status to participate as a party to safeguard their interests -- to address Excelsior/Mesaba's claimed "right" to priority consideration as baseload generation, and more generally the need for utility baseload generation and transmission infrastructure in Minnesota -- claims to such need has a direct impact on them. No other party in this proceeding protects or represents Gustafson and Castagneri's interests.

World Organization for Landowner Freedom petitions for Intervenor status to protect its longstanding demonstrated interest in promotion and utilization of distributed generation that negates the need for new baseload and transmission infrastructure, its interest in need for utility infrastructure and assurance that a claim of need is sufficiently demonstrated. As a landowner affected by the Arrowhead transmission project, exempted from the Power Plant Siting Act, W.O.L.F. intervened before the EQB and District and Appellate Courts and City of Duluth, and in Wisconsin before the Public Service Commission. W O L F has since represented its interests in determination of need for utility infrastructure as a participant in the Minnesota Power/ATC Approval of Agreement and the Rapids Power

coal plant proposal (Minnesota Power/Blandin coal plant in Grand Rapids, Minnesota) before the PUC, and as an Intervenor in the SW Minnesota 345kV transmission proceeding under the umbrella of Public Intervenor Network. No other party in this proceeding protects or represents W.O.L.F.'s interests.

Nancy Prehn of rural Waseca requests Intervenor status as a landowner with a direct interest in utility eminent domain. Prehn's home sits on land taken by eminent domain condemnation for underground natural gas storage in the late 1960's, and this case was appealed to the Supreme Court raising issues relevant today.¹ Now, a 325MW gas plant is proposed across the road from her home, and her land may be subject to a constructive taking, including loss of use and enjoyment of her home and diminished value due to the intrusion of the power plant. Prehn's interest in this proceeding is one of assuring that need is sufficiently demonstrated to support eminent domain condemnation for utility infrastructure – the issues raised by her father-in-law in the suit more than three decades ago that have yet to be addressed satisfactorily² – the issues of adequate compensation and need for infrastructure are the issues clamoring for attention in the current eminent domain debate across the state. Further, Prehn shares W.O.L.F.'s interest in promotion and utilization of distributed generation that negates the need for new baseload and transmission infrastructure, its interest in demonstration of the lack of need for utility infrastructure, and its interest in assuring that any claim of need is sufficiently demonstrated is affected by Applicants in this proceeding. Properly sited and planned utility infrastructure can eliminate the need for the gas plant proposed in rural Waseca and for transmission to deliver generation to load. Prehn's interests in eminent domain and need determinations are not represented by any party in this proceeding.

These parties bring a unique "public interest" perspective as affected landowners who have a direct stake in resource choice and utilization, and are affected landowners who have a preference for strategically sited distributed, renewable and sustainable generation that provides electricity as needed and which provides substantive and environmental benign local economic development that a community

¹ See *Minneapolis Gas Company v. Dahle, et al*, 171 N.W. 2d 813 (Minn. 1969).

² *Minneapolis Gas Company v. Dahle, et al*, addresses the "Buy the Farm" concept, later to become Minn. Stat. §116B.63, Subd. 4, allowing landowners to have their entire parcel condemned so that they do not have to live with objectionable and dangerous utility infrastructure. Utilization of "Buy the Farm" by landowners was limited to transmission lines over 200kV in the 2001 Energy Omnibus Bill.

can live with. It is a perspective with an interest in moving away from dependence central station power with long transmission lines that are inherently electrically and economically unstable and unjustified.

Gustafson and Castagneri's, W.O.L.F.'s and Prehn's distinct perspective and the interests peculiar to them are not represented by any other party and are assuredly NOT represented by MCEA or the organizations under its umbrella.³ These organizations have instead worked against their interests. For example, ME3 and the Izaak Walton League did nothing to oppose the Mesaba project and did not testify against it before the legislature. Further, groups under the MCEA umbrella, including MCEA itself, were parties to the TRANSLink Agreement,⁴ which grew from negotiations during the SW MN 345kV proceeding.⁵ The TRANSLink agreement is decidedly against the interests of Gustafson and Castagneri, W.O.L.F. and Prehn. Further, groups signing on to the TRANSLink agreement promoted the "package deal" of the 2005 Transmission Omnibus bill, Chapter 97, SF 1368,⁶ which codifies material terms of the TRANSLink deal, and which has the impact of enabling transmission across Minnesota. MCEA and organizations under its umbrella have substantive material conflicts of interest with Gustafson and Castagneri, W.O.L.F. and Prehn.

Gustafson and Castagneri, W.O.L.F. and Prehn request Intervenor status in this Big Stone II transmission proceeding.

Dated: February 12, 2006


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³ Petitioners note that MCEA and/or parties it represents were granted intervenor status although no Intervention Petition was filed, and parties' specific interest not been declared or considered in this record -- it is also unclear whether MCEA is an intervenor or representing intervenors.

⁴ Filed with PUC 6/23/03, between TRANSLink, MCEA, ME3, Izaak Walton League and NAWO.

⁵ A similar deal has been alluded to in conjunction with the Big Stone project See Sioux Falls Argus article: Deal Opens Door to Windpower <http://www.argusleader.com/apps/pbcs.dll/article?AID=20051021/NEWS/510210409:1001>

⁶ See http://www.revisor.state.mn.us/bin/getpath.php?pubtype=SLAW_CHAP&year=2005&session_number=0&chapter=97; see e.g. Minn. Stat. §§ 216B.02, Subd. 10 and 216B.16, Subd. 7(c) and 216B.2425, Subd. 2(a)(1) (TRANSLink style entity allowed); 216B.16, Subd. 7b; 216B.243, Subd. 3, 9 (criteria changed to "regional" and "reliability" need); 216B.2425, Subd. 7(b) (facilitating transmission "for renewables" despite Xcel blatant overreach in claim in SW MN 345kV case); 216B.243, Subd. 8(7); 216B.243, Subd. 5 ("streamlining" permitting process); Transfer of Siting Responsibilities ("streamlining").

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NOTICE OF APPEARANCE

TO ADMINISTRATIVE LAW JUDGE MIHALCHICK:

You are advised that the party named below will appear for Gustafson and Castagneri,
W.O.L.F. and Prehn in the above-entitled matter:

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